

# Exhibit Q

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15 UNITED STATES DISTRICT COURT

16 EASTERN DISTRICT OF WASHINGTON

17 PREPARED FOOD PHOTOS, INC.,  
18 f/k/a ADLIFE MARKETING &  
19 COMMUNICATIONS CO., INC., a  
20 Florida for profit corporation,

21 Plaintiff,

22 v.

23 POOL WORLD, INC., a Washington  
24 for profit corporation,

25 Defendant.  
26

NO. 2:23-cv-00160-TOR

PLAINTIFF'S INITIAL DISCLOSURES

27 Pursuant to Fed. R. Civ. P. 26(a)(1) and the Parties Joint Litigation and  
28 Discovery Plan, ECF No. 13, Plaintiff Prepared Food Photos, Inc., fka, Adlife

PLAINTIFF'S INITIAL DISCLOSURES • Page 1



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Marketing & Communications Co., Inc. ("Plaintiff") hereby provides to Defendant Pool World, Inc. ("Defendant") the following initial disclosures.

Plaintiff's initial disclosures are based on information now reasonably available to Plaintiff. Plaintiff reserves the right to supplement, amend, or modify these initial disclosures if and when Plaintiff obtains information through discovery or otherwise becomes aware of additional information.

### **INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION**

The following individuals are believed to have discoverable information that Plaintiff may use to support its claims or defenses. Plaintiff reserves the right to identify additional individuals if it learns that any such persons have information that Plaintiff may use to support its claims or defenses.

Individual and Location	Subject Matter
Joel Albrizio c/o Riverside Law Group PLLC 905 W. Riverside Ave., Ste. 404 Spokane, WA 99201	Information concerning Plaintiff's creation of the subject photograph, Plaintiff's efforts to sell its professional photography, and Plaintiff's discovery of Defendant's use of the subject photograph.
Rebecca Jones c/o Riverside Law Group PLLC 905 W. Riverside Ave., Ste. 404 Spokane, WA 99201	Information concerning Plaintiff's creation of the subject photograph, Plaintiff's efforts to sell its professional photography, and Plaintiff's discovery of Defendant's use of the subject photograph.

Individual and Location	Subject Matter
Agents, employees, officers, executives, and owners of Pool World, Inc. c/o Public Citizen Litigation Group 1600 20th Street NW Washington, DC 20009 c/o Kirby Law Office PLLC 1312 N Monroe Street Spokane, WA 99201-2623	Information concerning Defendant's affirmative defenses, Defendant's publication of the subject photograph, Defendant's profits/revenue generated therefrom, and Defendant's prior payment of licensing fees for photographs.

### **LOCATION AND DESCRIPTION OF DOCUMENTS AND THINGS**

Plaintiff will make available to Defendant for inspection and copying, as provided by Fed. R. Civ. P. 34, all non-privileged documents, data collections, and tangible things in its possession, custody or control that may be used by it (other than solely for impeachment purposes) to support its claims or defenses in this case. These documents are generally located on Plaintiff's computers and/or e-mail accounts. The categories of documents upon which Plaintiff currently intends to rely include the following:

1. Copyright Office registration materials for the subject photograph.
2. Documents showing Defendant's display of the subject photograph.
3. Communications with Defendant with respect to the subject photograph.
4. Prior licensing information with respect to Plaintiff's professional photography.

## COMPUTATION OF DAMAGES

Plaintiff seeks actual damages/disgorgement of Defendant's profits in this lawsuit. Defendant's profits are currently unknown (as discovery is pending). Plaintiff is not currently aware when Defendant first published the subject photograph. However, based on facts currently known to Plaintiff, it appears Defendant published the subject photograph prior to the date of copyright registration for the photograph. Plaintiff does not license individual photographs but rather the entirety of its image library to paying subscribers. The library is offered at a starting price of \$999.00/month with a 12-month minimum commitment. Plaintiff would calculate its actual damages by multiplying the license it would have charged (a minimum of \$999.00/month) by the number of years the photograph was published.

This means of calculating Plaintiff's damages has been adopted by numerous federal courts. See Prepared Foods Photos, Inc. v. Patriot Fine Foods LLC, No. 21-82129-CV, 2022 U.S. Dist. LEXIS 205649 (S.D. Fla. Mar. 22, 2022) (finding that \$11,988.00 was Prepared Food Photos' actual damages for what amounted to a 4-month use of the subject photograph and applying a 2x multiplier for statutory damages); Prepared Food Photos, Inc. v. 193 Corp., No. 1:22-cv-03832, 2022 U.S. Dist. LEXIS 205690 (N.D. Ill. Sep. 21, 2022) (awarding Plaintiff \$35,964.00 in actual damages, representing the \$11,988.00 annual license fee x 3 years of usage of pre-registration usage of a single photo; Prepared Food Photos, Inc. v. Miami Beach

1 411 Corp., No. 22-23197-CIV-ALTONAGA/Damian, 2022 U.S. Dist. LEXIS  
2 216003 (S.D. Fla. Nov. 28, 2022) (awarding Plaintiff \$35,964.00 in actual damages,  
3 representing the \$11,988.00 annual license fee x 3 years of usage of a single photo);  
4 Prepared Food Photos, Inc. v. Fat Daddy Co., No. 22-61671-CIV-SINGHAL, 2022  
5 U.S. Dist. LEXIS 216004 (S.D. Fla. Nov. 29, 2022) (awarding Plaintiff \$23,976.00  
6 in statutory damages, representing the \$11,988.00 annual license fee for a 1-year use  
7 with a 2x multiplier applied thereto); Prepared Food Photos, Inc. v. Perry Wings  
8 Plus, Inc., No. 22-CV-61883-RAR, 2022 U.S. Dist. LEXIS 227304, at \*24 (S.D. Fla.  
9 Dec. 19, 2022) (awarding \$71,928.00 in statutory damages, representing the  
10 \$11,988.00 annual license fee for a 3-year use with a 2x multiplier applied thereto);  
11 Prepared Food Photos, Inc. v. Silver Star of Brooklyn / Brooklyn's Best Inc., No.  
12 1:22-cv-04196-WFK-CLP, 2023 U.S. Dist. LEXIS 22037 (E.D.N.Y. Jan. 23, 2023)  
13 (awarding \$71,928.00 in statutory damages, representing the \$11,988.00 annual  
14 license fee for 3-year use with a 2x multiplier applied thereto); Prepared Food  
15 Photos, Inc. v. Chi.-Mkt.-Distrib., Inc., Civil Action No. 1:22-cv-03299-CNS-MEH,  
16 2023 U.S. Dist. LEXIS 88407 (D. Colo. May 19, 2023) (awarding Plaintiff  
17 \$35,964.00 in actual damages, representing the \$11,988.00 annual license fee x 3  
18 years of usage of a single photo); Prepared Food Photos, Inc. v. Exec. Dining Club,  
19 Inc., No. 22-cv-9446 (ER), 2023 U.S. Dist. LEXIS 99676 (S.D.N.Y. May 25, 2023)  
20 (awarding Plaintiff \$71,928.00 in statutory damages, representing the \$11,988.00  
21 annual license fee for 3-year use with a 2x multiplier applied thereto); Prepared  
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1 Food Photos, Inc. v. Shadowbrook Farm LLC, No. 1:22-CV-00704 (LEK/ATB),  
 2 2023 U.S. Dist. LEXIS 110171 (N.D.N.Y. June 27, 2023) (awarding Plaintiff  
 3 \$23,976.00 in statutory damages, representing the \$11,988.00 annual license fee for  
 4 a 1-year use with a 2x multiplier applied thereto); Prepared Food Photos, Inc. v.  
 5 WaDaYaNeed, LLC, No. 1:22-CV-01270 (LEK/ATB), 2023 U.S. Dist. LEXIS  
 6 110993 (N.D.N.Y. June 28, 2023) (awarding Plaintiff \$23,976.00 in statutory  
 7 damages, representing the \$11,988.00 annual license fee for a 1-year use with a 2x  
 8 multiplier applied thereto).  
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12 Plaintiff thus seeks \$11,988.00 in actual damages for each annualized period  
 13 the subject photograph was displayed by Defendant, exclusive of attorneys' fees,  
 14 costs, and prejudgment interest, which Plaintiff will also seek as damages. Plaintiff  
 15 reserves the right to revise and/or add to its computation of damages as the facts of  
 16 this action are developed through discovery.  
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### 19 INSURANCE AGREEMENTS

20 Plaintiff is not aware of any insurance agreement relevant to the claims  
 21 asserted in this lawsuit.  
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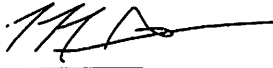
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1 RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of August, 2023.

2 RIVERSIDE LAW GROUP, PLLC

3  
4 By:   
5 Max K. Archer, WSBA 54081  
6 Attorneys for Plaintiff  
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**CERTIFICATE OF SERVICE**

I certify that on August 15, 2023, I e-mailed the foregoing document to the attorneys of record for Defendant.

/s/ Max K. Archer  
Max K. Archer, WSBA 54081